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U.S. Internal Revenue Service

Declaration of estimated tax by individuals

[Washington]

[1943]

97-84157-6

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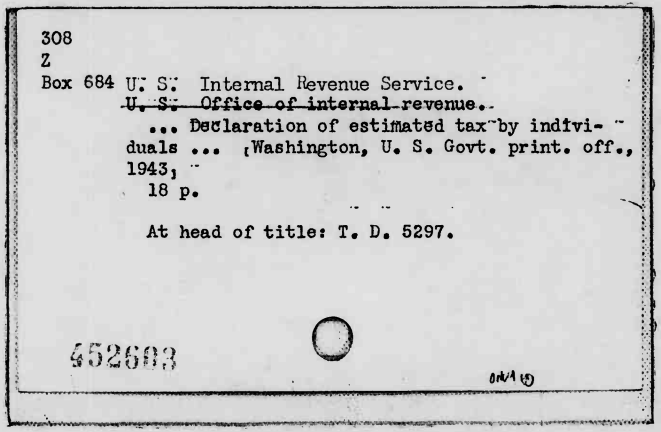

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(T. D. 5297)

DECLARATION OF ESTIMATED TAX BY INDIVIDUALS

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SECTION 19.58-1: Declaration of estimated tax. 1943-18-11534

TITLE 26—INTERNAL REVENUE.—CHAPTER I, SUBCHAPTER A, PART 19.—INCOME TAX.

Amending Regulations 103 to conform to sections 5, 7, and 8 of the Current Tax Payment Act of 1943.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE.
Washington, D. C.

To Collectors of Internal Revenue and Others Concerned:

In order to conform Regulations 103 [Part 19, Title 26, Code of Federal Regulations, 1940 Sup.] to sections 5, 7, and 8 of the Current Tax Payment Act of 1943 (Public law 68, Seventy-eighth Congress), approved June 9, 1943 [I. R. B. 1943-12, 22], such regulations are amended as follows:

PARAGRAPH 1. There is inserted immediately after section 60 of the Internal Revenue Code prior to its amendment the following:

SEC. 5. CURRENT PAYMENT OF TAX NOT WITHHELD AT SOURCE. (CURRENT TAX PAYMENT ACT OF 1943.)

(a) IN GENERAL.—The Internal Revenue Code is amended by striking out sections 58, 59, and 60 and inserting in lieu thereof the following:

"SEC. 58. DECLARATION OF ESTIMATED TAX BY INDIVIDUALS.

"(a) REQUIREMENT OF DECLARATION.—Every individual (other than an estate or trust and other than a nonresident alien with respect to whose wages, as defined in section 1621(a), withholding under Subchapter D of Chapter 9 is not made applicable) shall, at the time during the taxable year prescribed in subsection (d), make a declaration of his estimated tax for the taxable year if—

"(1) his gross income from wages (as defined in section 1621)

"(A) in case such individual is single or married but not living with husband or wife: can reasonably be expected to exceed $2,700 for the taxable year; or did exceed $2,700 for the preceding taxable year; or

"(B) in case such individual is married and living with husband or wife: can, when added to the gross income which can reasonably be expected to be received by such husband or wife from wages (as so defined), reasonably be expected to exceed $3,500 for the taxable year; or did when added to the gross income of such husband or wife from wages (as so defined) for the preceding taxable year, exceed $3,500 for such preceding taxable year; or

"(2) his gross income from sources other than wages (as defined in section 1621)

"(A) in case such individual is single or married but not living with husband or wife: can reasonably be expected to exceed $100 for the taxable year and his gross income to be such as will require the making of a return for the taxable year under section 51; or did exceed $100 for the preceding taxable year and such individual either was required to make a return under section 51 or 455 for such preceding taxable year or would have been so required if he had been single during the whole of such preceding taxable year; or

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"(B) in case such individual is married and living with husband or wife: can, when added to the gross income which can reasonably be expected to be received by husband or wife from such sources, reasonably be expected to exceed $100 for the taxable year and the aggregate gross income of such husband and wife can reasonably be expected to be such as will require the making of a return under section 51 or 455; or did, when added to the gross income of such husband or wife from such sources for the preceding taxable year, exceed $100 for such preceding taxable year and such individual would have been required to make a return under section 51 or 455 for such preceding taxable year if he had been married and living with husband or wife during the whole of such preceding taxable year; or

"(3) in case such taxable year is the taxable year beginning in 1943, such individual was required to make a return under section 51 for the taxable year beginning in 1942, and his gross income from wages (as defined in section 1621) for such taxable year is greater than the gross income which can reasonably be expected to be received from wages for the taxable year beginning in 1943.

"(b) CONTENTS OF DECLARATION.—In the declaration required under subsection (a) the individual shall state—

"(1) the amount which he estimates as the amount of tax under this chapter for the taxable year, without regard to any credits under sections 32, 35, and 466(e);

"(2) the amount which he estimates as the credits for the taxable year under sections 32, 35, and 466(e); and

"(3) the excess of the amount estimated under paragraph (1) over the amount estimated under paragraph (2), which excess for the purposes of this chapter shall be held and considered the estimated tax for the taxable year.

The declaration shall also contain such other information for the purposes of carrying out the provisions of this chapter as the Commissioner, with the approval of the Secretary, may by regulations prescribe, and shall contain or be verified by a written statement that it is made under the penalties of perjury.

"(c) JOINT DECLARATION BY HUSBAND AND WIFE.—In the case of a husband and wife living together, a single declaration under this section may be made by them jointly, in which case the liability with respect to the estimated tax shall be joint and several. No joint declaration may be made if either the husband or wife is a nonresident alien. If a joint declaration is made but a joint return is not made for the taxable year, the estimated tax for such year may be treated as the estimated tax of either the husband or the wife, or may be divided between them.

"(d) TIME AND PLACE FOR FILING.—The declaration required under subsection (a) shall be filed on or before the fifteenth day of the third month of the taxable year, except that if the requirements of subsection (a) are first met after such date, the declaration shall be filed on or before the fifteenth day of the last month of the quarter of the taxable year in which such requirements are first met. An individual may make amendments or revisions of a declaration filed under this subsection, under regulations prescribed by the Commissioner with the approval of the Secretary. If so made, such amendments or revisions shall be filed on or before the fifteenth day of the last month of any quarter of the taxable year subsequent to that in which the declaration was filed and in which no previous amendments or revisions have been made or filed. Declarations and amendments and revisions thereof shall be filed with the Collector specified in section 53(b)(1).

"(e) EXTENSION OF TIME.—The Commissioner may grant a reasonable extension of time for filing declarations and paying the estimated tax, under such rules and regulations as he shall prescribe with the approval of the Secretary. Except in the case of taxpayers who are abroad, no such extension shall be for more than six months.

"(f) PERSONS UNDER DISABILITY.—If the taxpayer is unable to make his own declaration, the declaration shall be made by a duly authorized

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agent or by the guardian or other person charged with the care of the person or property of such taxpayer.

"(g) SIGNATURE PRESUMED CORRECT.—The fact that an individual's name is signed to a filed declaration shall be prima facie evidence for all purposes that the declaration was actually signed by him.

"(h) PUBLICITY OF DECLARATION.—For the purposes of section 55 (relating to publicity of returns), a declaration of estimated tax shall be held and considered a return under this chapter.

"SEC. 59. PAYMENT OF ESTIMATED TAX.

"(a) IN GENERAL.—The estimated tax shall be paid in four equal installments except that—

"(1) if the declaration is filed (otherwise than pursuant to an extension of time) after the fifteenth day of the third month of the taxable year, the estimated tax shall be paid in equal installments the number of which is equal to the number of quarters remaining in the taxable year (including the quarter in which the declaration is filed); and

"(2) if any amendment or revision of a declaration is filed, the remaining installments shall be ratably increased or decreased, as the case may be, to reflect the increase or decrease, as the case may be, in the estimated tax by reason of such amendment or revision; and

"(3) at the election of the individual, any installment of the estimated tax may be paid prior to the date prescribed for its payment.

One installment of the estimated tax shall be paid at the time of making the declaration, and an installment thereof shall be paid on the fifteenth day of the last month of each succeeding quarter of the taxable year. Payment of any installment of the estimated tax shall be considered payment on account of the tax for the taxable year.

"(b) ASSESSMENT.—The estimated tax shall be assessed only to the extent paid.

"SEC. 60. SPECIAL RULES FOR APPLICATION OF SECTIONS 58 AND 59.

"(a) FARMERS.—In the case of an individual whose estimated gross income from farming for the taxable year is at least 80 per centum of the total estimated gross income from all sources for the taxable year, in lieu of the time prescribed in section 58(d), the declaration for the taxable year may be made at any time on or before the fifteenth day of the last month of the taxable year.

"(b) APPLICATION TO SHORT TAXABLE YEARS.—The application of sections 58, 59, and 294(a) (3), (4), and (5) to taxable years of less than twelve months shall be as prescribed in regulations prescribed by the Commissioner with the approval of the Secretary.

"(c) APPLICATION TO TAXABLE YEARS BEGINNING IN 1943.—If the taxable year is the calendar year 1943, the fifteenth day of September, 1943, shall be substituted for the fifteenth day of March for the purposes of section 58(d). If the taxable year begins in 1943 after January 1, the date which shall be substituted for the fifteenth day of the third month of the taxable year for the purposes of section 58(d) shall be prescribed by regulations prescribed by the Commissioner with the approval of the Secretary. In either case installments of the estimated tax for such taxable year payable after September 1, 1943, shall be ratably decreased to reflect the payments on account of a taxable year beginning in 1942 which are treated as payments on account of the estimated tax for a taxable year beginning in 1943."

* * * * * * *

(f) TAXABLE YEARS TO WHICH APPLICABLE.—The amendments made by this section shall be effective with respect to taxable years beginning after December 31, 1942, except that for section 294(a)(5) of the Internal Revenue Code shall not be applicable to a taxable year beginning in 1943 in the case of an individual not required to make a declaration under section 58 of the Internal Revenue Code for such year.

SEC. 19.58-1. DECLARATIONS OF ESTIMATED TAX.—(*a*) *General.*—Under the provisions of section 1622 as added to the Internal Revenue Code by section 2 of the Current Tax Payment Act of 1943 there is withheld at the source a tax designed to approximate the amount of net victory tax, the normal tax, and the first bracket surtax but the tax so withheld applies only to wages and not to other forms of income such as dividends, interest, rents, royalties and the like. In order to collect currently during the taxable year in which the income is received that portion of the tax liability for the taxable year which is not satisfied by collection at the source, there is required to be filed, as specifically set forth in subsection (*b*) of this section, for taxable years beginning after December 31, 1942, a declaration of estimated tax for the then current taxable year. As to the contents of such declaration, see section 58(b). As to the time and place of filing such declaration, see section 58(d). As to additions to the tax and penalties with respect to filing and contents of declaration, see section 294(a). As to payment of the estimated tax, see section 59.

(*b*) *Obligation to file declarations of estimated tax.*—A declaration of estimated tax shall, for taxable years beginning after December 31, 1942, be made by (1) every citizen of the United States, whether residing at home or abroad, (2) every individual residing in the United States though not a citizen thereof, and (3) every nonresident alien who is a resident of Canada or Mexico and who has wages subject to withholding at the source under section 1622 if such citizen or resident or alien comes within any of the following groups:

(i) Single or married but not living with spouse at the date prescribed for the making of the declaration (whether or not the head of a family), if such individual had for the preceding taxable year or can reasonably be expected to have for the taxable year—

(A) gross income of more than $2,700 from wages subject to withholding; or

(B) gross income of more than $100 from sources other than wages subject to withholding, and gross income of $500 or more from all sources.

(ii) Married and living with spouse at the date prescribed for the making of the declaration, if such individual had for the preceding taxable year or can reasonably be expected to have for the taxable year—

(A) gross income from wages subject to withholding which, when added to the gross income from such wages of his spouse, exceeds $3,500; or

(B) gross income other than from wages subject to withholding which, when added to the gross income other than from such wages of his spouse, exceeds $100, and his gross income from all sources exceeds $624 for the taxable year or the preceding taxable year (if such preceding taxable year is a taxable year beginning after December 31, 1942), or the aggregate gross income of both spouses from all sources amounts to $1,200 or more for the taxable year or the preceding taxable year.

(iii) Any individual without regard to marital status, (A) who was required to file a return under section 51 for the taxable year beginning in 1942 and (B) whose gross income from wages for such taxable year is greater than the gross income which can reasonably be expected to be received from wages in the taxable year beginning in 1943. Thus, a married individual making his return on the calendar year basis, who received $3,000 in the form of wages in 1942 and can be reasonably expected to receive $2,000 in the form of wages in 1943 is, under the provisions of paragraph (3) of section 58(a), required to file a declaration of estimated tax.

For the purposes of determining whether a declaration of estimated tax is required under section 58(a), a taxpayer who is the head of a family but not married and living with husband or wife is treated as a single person; and for the purpose of determining whether a declaration of estimated tax is required in the case of a husband and wife living together at the time prescribed for filing such declaration, the incomes of such husband and wife for the preceding taxable year shall be aggregated whether or not they were married and living together during any part of such preceding taxable year.

In the case of a husband and wife each having gross income, if their combined gross income meets the requirements of this subsection, a joint declaration

of estimated tax must be made by husband and wife or a separate declaration must be made by each.

If an individual had no gross income for the preceding taxable year and it can not be resonably expected that he will have gross income for the taxable year, no declaration of estimated tax is required.

A nonresident alien who is a resident of Canada or Mexico, who enters and leaves the United States at frequent intervals and who has wages subject to withholding under the provisions of section 1622, is required to file a declaration of estimated tax if he comes within any of the groups set forth in section 58(a). In the case of a nonresident alien, gross income means only gross income from sources within the United States. Section 212(a). As to what constitutes gross income from sources within the United States, see section 119 and regulations thereunder. Thus, for example, a nonresident alien living in Canada with his wife throughout 1942 and 1943, makes his return on the calendar year basis. He is employed as a mechanic in Detroit, Mich., and enters and leaves the United States at frequent intervals. In 1942 he derived an average weekly wage from such source of $80 and had no other income from United States sources. Since his gross income from wages derived from sources within the United States in 1942 amounted to more than $3,500, a declaration of estimated tax must be filed for 1943.

An estate or trust, though taxed generally as an individual, is not within the scope of the system of current payment of the tax and hence is not required to file a declaration.

As used in this section the term "wages" means wages as defined in section 1621.

The application of these provisions may be illustrated by the following examples:

Example (*1*). A, a taxpayer making his return on the calendar year basis, is unmarried and derived in 1942 wages amounting to $2,500. Effective January 1, 1943, however, his wages were increased to $60 per week and he has been regularly employed at that wage from that date through September 15, 1943, and as at such latter date upon the basis of facts then existing it is reasonable to assume that his wages for the remainder of the calendar year 1943 will remain unchanged. In such case, the wages which can reasonably be expected to be received for 1943 will amount to approximately $3,120 and since such amount exceeds $2,700 A is required to file a declaration of estimated tax.

Example (*2*). Assume the facts set forth in example (1) except that A's wages for 1942, and as at September 15 the wages reasonably to be anticipated for 1943, do not exceed $2,200 for each of such years but as of such date he could reasonably be expected to receive dividends of $150 for 1943. His total expected gross income being more than $500 and his expected gross income other than wages being more than $100 a declaration of estimated tax must be filed. If, however, his sole income for 1942 and the income reasonably to be expected for 1943 consist of wages of $2,200 for each of such years, no declaration is required, since his sole income for each year is less than $2,700, is wholly from wages, and the wages for 1942 are not in excess of the wages reasonably expected to be received for 1943.

Example (*3*). A, married and living with his wife B throughout 1942 and 1943, makes his return on the calendar year basis. His sole gross income for 1942 and up to September 15, 1943, consists of wages averaging $60 per week. His wife was not employed during 1942 and derived no income during such year but was employed effective July 1, 1943, at $40 per week. Since the wages reasonably to be anticipated by A during 1943 ($3,120) when added to the wages reasonably to be anticipated by B during 1943 ($1,040), aggregate $4,160, and thus exceed the amount of $3,500, a declaration of estimated tax must be filed jointly by A and B or a separate declaration must be made by each.

Example (*4*). X, married and living with his wife throughout 1943 and making his return on the calendar year basis, has as his only income for 1942 wages of $3,200 and it can be reasonably expected that his only income for 1943 will consist of wages of $2,800. Under the rules laid down above in groups (i) and (ii) X would not be required to file a declaration in 1943. However, X falls within group (iii) since his gross income for 1942 was such as to require the filing of a return for that year and his wages for 1942 are in excess of the wages he can reasonably be expected to receive in 1943.

SEC. 19.58–2. FORM AND CONTENTS OF DECLARATION OF ESTIMATED TAX.—(*a*) *General.*—The declaration of estimated tax shall be on Form 1040–ES. The form may be had from the collectors of the several districts. It shall be executed, verified, and filed in accordance with those regulations and the instructions on the form or issued therewith. For the purposes of making the declaration, the amount of gross income which the taxpayer can reasonably be expected to receive or accrue, as the case may be, depending upon the method of accounting upon the basis of which the net income is computed, and the amount of the estimated allowable deductions and credits to be taken into account in computing the amount of the estimated tax, shall be determined upon the basis of facts and circumstances existing as at the time prescribed for the filing of the declaration. If, therefore, the taxpayer is employed at the date of filing his declaration at a given wage or salary, it should, in the absence of circumstances indicating the contrary, be presumed by him for the purposes of the declaration that such employment will continue to the end of the taxable year at the wage or salary received by him as at the date of making the declaration. In the case of the recipient of income other than wages, the regularity in the payment of income, such as dividends, interest, rents, royalties, and income arising from estates and trusts, is a factor to be taken into consideration. Thus, if the taxpayer owns shares of stock in the X Corporation and dividends have been paid regularly for several years upon such stock, the taxpayer in the preparation of his schedules preliminary to the execution of Form 1040–ES should, in the absence of information indicating a change in the dividend policy, include the prospective dividends from the X Corporation for the taxable year as well as those actually received in such year prior to the filing of the declaration. In the case of a taxpayer engaged in business on his own account, there shall be made an estimate of gross income and deductions and credits in the light of the best available information affecting the trade, business, or profession.

In the case of any individual who can, at the time of the preparation of Form 1040–ES, reasonably anticipate that his gross income will be of such amount and character as to enable him to elect upon his return for such year to compute the tax under section 400 in lieu of the normal tax and surtax, the declaration of estimated tax may be made upon the basis set forth in section 400 and section 19.400–1. If the taxpayer computes his estimated tax for the taxable year under the provisions of section 400, it will be necessary for him to add the victory tax to the tax set forth on the reverse side of Form 1040A and appropriate to the taxable income of the taxpayer for the taxable year. Thus, if his gross income is $3,000 and he is a single person not the head of a family, the tax under section 400 is $431. To such amount must be added 5 per cent of $2,376 ($3,000 less $624) or $118.80 less the amount of the post-war credit or refund, if any, currently used against the tax. See sections 453 and 454 and regulations thereunder. The filing of a declaration computed upon the basis of section 400 shall not constitute an election under section 402 and shall not permit the filing of a return under section 400 unless the taxpayer comes within the provisions of sections 400 and 401. A married person living with husband or wife should not use section 400 in computing his estimated tax for the purpose of the declaration unless both spouses use that section for such purpose.

The declaration may be made by an agent if, by reason of illness, the person liable for the making of the declaration is unable to make it. The declaration may also be made by an agent if the taxpayer is unable to make the declaration by reason of continuous absence from the United States for a period of at least 60 days prior to the date prescribed by law for making the declaration. Whenever a declaration is made by an agent it must be accompanied by the prescribed power of attorney, Form 935, except that an agent holding a valid and subsisting general power of attorney authorizing him to represent his principal in making, executing, and filing the income declaration, may submit a certified copy thereof in lieu of the authorization on Form 935. The taxpayer and his agent, if any, are responsible for the declaration as made and incur liability for the penalties provided for erroneous, false, or fraudulent declarations.

The home or residential address of the taxpayer (including the street and number, if any) shall be given in the space provided on the form. A taxpayer having a permanent business address may give that address as the principal

or mailing address, provided that the complete home or residential address is also given within the space provided.

(*b*) *Contents of declaration.*—For taxable years beginning in 1943, if the tax for the taxable year beginning in 1942 (after the credit for foreign tax, but before credits for tax paid at source) is greater than the tax for 1943, similarly computed, there shall be included in the estimated tax for 1943 the excess, if any, of the tax for 1942 over the tax for 1943. Such excess is the excess of the tax for 1942 (computed after the credit for the tax, if any, paid at the source under section 143) over the tax for 1943, similarly computed. If, for example, the taxes for 1942 and for 1943, respectively, after the allowance of the credit for foreign tax, if any, are $1,000 and $750 and there is no tax paid at the source under section 143 for either of such years, the increase in the estimated tax for 1943 is $1,000 minus $750, or $250, and thus, the amount to be estimated by the taxpayer as the amount of his income tax (including victory tax) for 1943 for the purpose of the declaration of estimated tax is $1,000, which amount, when reduced by the applicable credits under sections 35 and 466(e), is the estimated tax for 1943. If, however, in such case tax was paid at the source for the taxpayer under section 143 in the respective amounts, for example, of $100 and $75 for 1942 and 1943, the amount estimated as the amount of the tax for the purpose of the declaration shall be determined as follows: The tax for 1942 after the application of $100 paid at the source is $900 and the tax for 1943 after the application of $75 paid at the source with respect to such year is $675 and in such case the addition to the tax for 1943 is $900 minus $675, or $225, which latter amount when added to $675 aggregates $900, which is the amount of the income tax (including victory tax) for 1943. The excess of such tax ($900) over the amount of the applicable credits under sections 32, 35, and 466(e) is the estimated tax in such case for 1943.

For taxable years beginning on and after January 1, 1944, the preparation of the declaration of estimated tax will not necessitate any comparison between the tax liability for the current taxable year and that for the preceding taxable year. For such taxable years the declaration shall contain (1) the amount estimated as the tax for the taxable year after the application of the credit for foreign tax, if any, but without regard to the credits under sections 32, 35, and 466(e); (2) the amount estimated by the taxpayer as the sum of the credits under such sections; and (3) the excess, if any, of the amount shown under (1) over the amount shown under (2), which excess shall be the estimated tax for such taxable year.

SEC. 19.58–3. JOINT DECLARATIONS BY HUSBAND AND WIFE LIVING TOGETHER.—A married person and spouse living together at the time prescribed for making the declaration, may file a joint declaration. If one spouse dies prior to the filing of the declaration, the surviving spouse may not include the income of the deceased spouse in a joint declaration. A joint declaration may not be made if either husband or wife is a nonresident alien.

A joint declaration of a husband and wife, if not made by an agent (see section 19.51–2), shall be signed by both spouses. If signed by one spouse as agent for the other, authorization for such action must accompany the declaration. The spouse acting as agent for the other shall, with the principal, assume the responsibility for making the declaration and incur liability for the penalties provided for erroneous, false, or fraudulent declarations.

If a joint declaration is made by husband and wife, the liability with respect to the estimated tax shall be joint and several. The fact that a joint declaration of estimated tax is made by them will not preclude a husband and his wife from filing separate returns. In case a joint declaration is made but a joint return is not made for the same taxable year, the payments made on account of the estimated tax for such year may be treated as payments on account of the tax liability of either the husband or wife for the taxable year or may be divided between them in any manner they see fit. In any case in which a joint return has been filed by husband and wife for the taxable year beginning in 1942 but separate declarations are made for the taxable year beginning in 1943, the excess, if any, of the joint tax liability for 1942 over the aggregate tax on the separate declarations for 1943, which excess constitutes an addition to the estimated tax for 1943, may be treated as an addition to the estimated tax of either the husband or the wife, or may be divided between them as they may agree. See section 6 (b) (1) and (d) (2) of the Current Tax Payment Act of 1943.

SEC. 19.58–4. USE OF PRESCRIBED FORMS.—Copies of the prescribed declaration forms will so far as possible be furnished taxpayers by collectors. A taxpayer

will not be excused from making a declaration, however, by the fact that no declaration form has been furnished to him. Taxpayers not supplied with the proper forms should make application therefor to the collector in ample time to have their declarations prepared, verified, and filed with the collector on or before the due date. Each taxpayer should carefully prepare his declaration so as fully and clearly to set forth the data therein called for. Taxpayers desiring to employ work sheets to facilitate the preparation of the declaration may secure them by application to the collector for "Alternative Instructions for Declaration of Estimated Income and Victory Tax by Individuals." Such work sheets are to be retained by the taxpayer and not filed with the collector. If the prescribed form is not available a statement disclosing his estimated income tax (including victory tax) for 1943, his estimated credits and his estimated tax after deducting such credits may be accepted as a tentative declaration, and if filed within the prescribed time, accompanied by the payment of the required installment, the statement so made will relieve the taxpayer from liability to penalties, provided that without unnecessary delay such a tentative declaration is supplemented by a declaration made on the proper form.

SEC. 19.58-5. TIME AND PLACE FOR FILING DECLARATIONS.—(*a*) *Time for filing declaration.*—(1) *General.*—Declarations of estimated tax must (except in the case of farmers as to whom see subsection (a) (3) of this section) be made on or before the 15th day of the third month of the taxable year by every individual whose then anticipated income for the current taxable year, or whose actual income for the preceding taxable year, meets the requirements of section 58(a). The requirement with respect to the time for filing the declaration applies alike to nonresident aliens who are required to make the declaration as well as to United States citizens and residents. For the taxable year 1943, in the case of a taxpayer (other than a farmer) who makes his returns on a calendar year basis, the first declaration must be filed on or before September 15, 1943. In the case of such a taxpayer who makes his returns on the fiscal year basis and whose fiscal year begins in 1943 on or prior to July 1, the declaration must likewise be filed on or before September 15, 1943. In the case of such a taxpayer having a fiscal year beginning in 1943 subsequent to July 1, the declaration must be filed on the 15th day of the third month of such taxable year. For subsequent taxable years the declaration must be filed on or before the 15th day of the third month of such then current taxable year. For provisions relating to the time for filing declarations of estimated tax in the case of certain individuals outside the Americas, certain individuals in the military or naval forces of the United States who are serving on sea duty or outside the continental United States, and certain civilian employees of the United States who are prisoners of war or otherwise detained by any foreign government with which the United States is at war, see section 19.53-1.

(2) *Declarations for short taxable years.*—No declaration may be made for a period of more than 12 months. A separate declaration for a fractional part of a year is, therefore, required wherever there is a change with the approval of the Commissioner in the basis of computing net income from one taxable year to another taxable year. The periods to be covered by such separate declarations in the several cases are those set forth in section 47(a). Requirements with respect to filing of a separate declaration for a part of a year are the same as those for the filing of a declaration for a full taxable year commencing at the same time. Thus, for example, if the taxpayer changes his accounting period (after compliance with section 19.46-1) from the calendar year basis to the basis of a fiscal year beginning July 1, 1944, such action having been taken and permission of the Commissioner secured prior to March 15, 1944, then the declaration of estimated tax for the taxable period January 1 to June 30, 1944, must be filed on or before March 15, 1944, and an amended declaration may be filed on June 15, 1944. In the case of a decedent, no declaration need be filed subsequent to the date of death.

In the case of short taxable years ending in 1943, resulting from the change from the calendar year basis to the fiscal year basis of reporting income, no declaration is required to be filed if such short period ends prior to the date prescribed for the filing of the declaration for the calendar year 1943. If, however, such period ends subsequent to the date prescribed for the filing of the declaration, the declaration must be filed. For example, the taxpayer changes from a calendar year basis to the fiscal year basis beginning July 1, 1943. No declaration for the short period is required since his final return for the period January 1 to June 30 is due on or before September 15, 1943. If, however, he changed to a fiscal year beginning December 1, 1943, a declaration must be filed on or before September 15, 1943, for the period January 1 to November 30, 1943.

(3) *Farmers.*—While, generally, the declaration of estimated tax must be filed on or before the 15th day of the third month of the taxable year, the statute provides that in the case of an individual whose estimated gross income from farming for the taxable year is at least 80 per cent of his total estimated gross income from all sources for such year there is permitted the election of filing a declaration on or before the 15th day of the last month of the taxable year in lieu of the time prescribed for individuals generally. The estimated gross income from farming is the estimated income resulting from the cultivation of the soil and the raising or harvesting of any agricultural or horticultural commodities, and the raising of livestock, bees, or poultry. In other words, the requisite gross income must be derived from the operations of a stock, dairy, poultry, fruit, or truck farm, or plantation, ranch, nursery, range, or orchard. If an individual receives for the use of his land income in the form of a share of the crops produced thereon, such income is from farming. As to determination of income of farmers, see sections 19.22(a)-7 and 19.23(a)-11.

(*b*) *Place for filing declaration.*—The declaration of estimated tax and amendments and revisions thereof shall be filed with the collector for the district in which is located the legal residence or principal place of business of the person making the declaration, or if he has no legal residence or principal place of business in the United States, then with the collector at Baltimore, Md. Any amended declaration shall be filed with the collector for the district in which the original declaration was filed.

An individual employed on a salary or commission basis who is not also engaged in conducting a commercial or professional enterprise for profit on his own account does not have a "principal place of business" within the meaning of this subsection and shall make his declaration to the collector for the district in which is located his legal residence, or if he has no legal residence in the United States then to the collector at Baltimore, Md.

(*c*) *Obligation to file declaration arising after the 15th day of the third month of taxable year.*—Generally, the declaration shall be filed on the 15th day of the third month of the taxable year. However, for the calendar year 1943 the 15th day of September, 1943, shall be substituted for the 15th day of such third month. If as of the date so prescribed the amount and character of the income of the taxpayer and his marital status are such that no declaration is required to be filed, but subsequent to such date the amount and character of his income or his marital status changes so that he meets the requirements of section 58, then the declaration must be filed not later than the 15th day of the last month of the quarter of the taxable year in which such changes take place. This provision may be illustrated by the following example:

Example. A United States citizen and resident, a single man, was employed at an annual salary of $2,400 for the period in 1944 beginning with January 1 and extending through March 15. He had no other income subject to withholding for such period and as at March 15, 1944, it could not have been reasonably anticipated that he would receive any other income in 1944. Under those circumstances he is not required to file a declaration of estimated tax on March 15, 1944. On July 1, 1944, however, he was promoted to a position at an annual salary of $3,200. Hence, on that date his wages subject to withholding could reasonably be expected to exceed $2,700 for the taxable year. Hence, he is required to file a declaration of estimated tax for the calendar year 1944 on or before September 15, 1944.

(*d*) *Amended declarations.*—In the making of a declaration of estimated tax, the statute requires the taxpayer to take into account the then existing facts and circumstances as well as those reasonably to be anticipated relating to prospective gross income, the deductions therefrom, and the estimated credits for the taxable year. Amended or revised declarations may be made in any case in which the taxpayer estimates that his income, deductions, or credits will differ from the income, deductions, or credits reflected in the previous declaration. An amended declaration may also be made based upon a change in the marital status of the taxpayer. Such amended declaration shall be on Form 1040-ES, marked "Amended."

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No amended or revised declaration may be filed in the quarter in which the original declaration has been filed nor in any subsequent quarter in which a prior or revised declaration has been so filed.

SEC. 19.58–6. EXTENSION OF TIME FOR FILING DECLARATIONS.—It is important that the taxpayer render on or before the due date a declaration of estimated tax as accurate as the facts and circumstances then existing or reasonably to be anticipated permit. However, the Commissioner is authorized to grant a reasonable extension of time for filing declarations under such rules and regulations as he shall prescribe with the approval of the Secretary. Accordingly, authority for granting extensions of time for filing declarations is hereby delegated to the various collectors of internal revenue. Applications for extensions of time for filing declarations shall be addressed to the collector of internal revenue for the district in which the taxpayer files his income tax returns, and must contain a full recital of the causes for the delay. Except in the case of taxpayers who are abroad, no extension for filing declarations may be granted for more than six months.

An extension of time for filing the declaration of estimated tax for taxable years beginning on or before July 1, 1943, is hereby granted to and including the 15th day of December, 1943, in the case of United States citizens outside the States of the Union, the District of Columbia, and Hawaii on September 15, 1943; and for taxable years beginning after July 1, 1943, an extension of time for filing the declaration of estimated tax otherwise due on or before the 15th day of the third month of the taxable year is hereby granted to and including the 15th day of the sixth month of the taxable year in the case of United States citizens outside the States of the Union, the District of Columbia, and Hawaii on the 15th day of the third month of the taxable year.

An extension of time for filing the declaration of estimated tax automatically extends the time for paying the estimated tax (without interest) for the same period.

SEC. 19.58–7. PUBLICITY OF RETURNS.—The declaration of estimated tax constitutes, within the meaning of section 55, a return. Hence, the rules provided under that section with respect to publicity of returns are equally applicable to declarations of estimated tax. See section 55 and regulations thereunder.

SEC. 19.58–8. PAYMENT OF ESTIMATED TAX.—(*a*) *General.*—Section 59 provides that if the declaration of the estimated tax is made on or before the 15th day of the third month of the taxable year, such tax may be paid at the time of filing the declaration or in four equal installments. In such case the first installment shall be paid at the time of filing the declaration, the second installment on or before the 15th day of the sixth month, the third installment on or before the 15th day of the ninth month, and the fourth installment on or before the 15th day of the twelfth month of the taxable year.

If the declaration of estimated tax is filed after the 15th day of the third month of the taxable year (otherwise than by reason of an extension of time), the estimated tax shall be paid at the time of filing the declaration or in equal installments the number of which is equal to the number of quarters remaining in the taxable year (including the quarter in which the declaration is filed). Thus, since the first declaration of estimated tax for the calendar year 1943 is required to be filed on or before September 15 of that year, the estimated tax for such year must be paid at the time of filing the declaration or in two equal installments, one on or before September 15, and the other on or before December 15, of that year. For the fiscal year beginning June 1, 1943, and ending May 31, 1944, the declaration is required to be filed on or before September 15, 1943, and one-third of the estimated tax shown on such declaration shall be paid on or before September 15, 1943, one-third on or before February 15, 1944, and one-third on or before May 15, 1944, unless the taxpayer elects to pay two or more installments of the estimated tax at the time of filing the declaration. If due to the nature and amount of his gross income or his then existing marital status a declaration for the calendar year 1944 is not required to be filed on or before March 15, 1944, but a change in such gross income or marital status occurs so that a declaration is filed on June 15, 1944, the estimated tax for the calendar year 1944 may be paid in three installments, on or before June 15, on or before September 15, and on or before December 15, 1944.

If the taxpayer files an amended or revised declaration of estimated tax, the installments remaining unpaid as of the date of such filing shall be ratably increased or decreased, as the case may be, to reflect any change made in the

previously estimated tax by such amendment or revision. For example, the taxpayer filed on March 15, 1944, a declaration of estimated tax for the calendar year 1944 showing the amount of such tax as $600. An installment of $150 was paid at the time of making such declaration. However, based on facts arising subsequent to the date of the original declaration but which could not be reasonably foreseen as at that date, the taxpayer on June 15, 1944, filed an amended declaration showing an estimated tax for the taxable year 1944 of $300 instead of the $600 originally estimated. Based on the amended declaration, the installments of estimated tax required to be paid on or before June 15, September 15, and December 15 in each case will be $50.

At the election of the taxpayer, any installment of the estimated tax may be paid prior to the date prescribed for the payment.

The payment of any and every installment of the estimated tax for any taxable year shall be treated as a payment on account of the income tax for such taxable year. Hence, upon the return, Form 1040, or Form 1040A, as the case may be, for such taxable year will appear as payments to be applied against the tax shown on such return the aggregate amount of the payments of estimated tax.

The regulations generally applicable to extensions of the time for the payment of the tax or any installment thereof are likewise applicable to extensions of time for the payment of estimated tax, except that extensions of time for payment of the estimated tax or any installment thereof shall be without interest. See section 19.56–2.

(*b*) *Farmers.*—In the case of an individual whose estimated gross income from farming is at least 80 per cent of his total gross income from all sources for the taxable year, special provisions are made with respect to the filing of the declaration, the payment of the tax and the penalties incurred. As to what constitutes income from farming within the meaning of this subsection, see section 19.58–5(*a*)(3). In such case the declaration is to be filed on or before the 15th day of the last month of the taxable year, and the entire amount of the estimated tax must be paid at that time.

(*c*) *Treatment of payments on account of 1942 tax.*—In the case of a taxable year beginning in 1942, the liability for the tax for such taxable year 1942 is discharged as of September 1, 1943. However, any payments (other than interest and additions to the tax) made before September 1, 1943, on account of the 1942 tax are treated as payments on account of the estimated tax for the taxable year beginning in 1943. Taxpayers on the calendar year basis who elected to pay their 1942 tax in installments were required to pay one of such installments on March 15, 1943, and another on June 15, 1943. Such installments are treated as payments on account of the estimated tax for the taxable year 1943. In any case in which the payment of any of such installments due prior to September 1, 1943, is extended by the Commissioner prior to that date, such payment is likewise treated as a payment of estimated tax for 1943 and is required to be paid despite the fact that the provisions discharging the tax liability for 1942 are effective as of September 1, 1943. If the taxpayer should become delinquent prior to September 1, 1943, in the payment of his tax or any installment thereof, the fact that the liability for the tax for 1942 is discharged as of that date does not relieve the taxpayer of his liability for payment of such installment. Such payment when made, however, is to be treated as a payment made on account of the estimated tax for 1943.

The amounts so treated as payment on account of the estimated tax for 1943 shall be applied against the estimated tax of the taxpayer for the taxable year 1943 as shown in his declaration of estimated tax for that year and shall thus reduce ratably the installments of the estimated tax shown thereon. Thus, if the estimated tax for 1943 is $1,000 and the taxpayer being on the calendar year basis has paid two installments of his 1942 tax liability each amounting to $200, the estimated tax after the application of such payments is reduced to $600, of which one-half is to be paid at the time of filing the declaration, namely, on or before September 15, 1943, and the remaining installment on or before December 15, 1943.

If, in the case of husband and wife, a joint return has been filed for the taxable year beginning in 1942, any payment due prior to September 1, 1943, made with respect to the tax liability shown thereon may, if separate declarations are made by the spouses for the taxable year beginning in 1943, be applied against the estimated tax of either spouse or may be divided between them in any manner they see fit. In any case in which a joint return has been filed by husband and

wife for the taxable year beginning in 1942 but separate declarations are made for the taxable year beginning in 1943, the excess, if any, of the joint tax liability for 1942 over the aggregate tax on the separate declarations for 1943, which excess constitutes a part of the estimated tax for 1943, may be treated as a part of the estimated tax of either the husband or the wife, or may be divided between them as they may see fit.

PAR. 2. There is inserted immediately after section 294 the following:

SEC. 5. CURRENT PAYMENT OF TAX NOT WITHHELD AT SOURCE. (CURRENT TAX PAYMENT ACT OF 1943.)

* * * * * * * *

(b) ADDITIONS TO TAX.—Section 294(a) of the Internal Revenue Code (relating to additions to tax in case of nonpayment) is amended by inserting at the end thereof the following:

"(3) FAILURE TO FILE DECLARATION OF ESTIMATED TAX.—In the case of a failure to make and file a declaration of estimated tax within the time prescribed, there shall be added to the tax an amount equal to 10 per centum of the tax.

"(4) FAILURE TO PAY INSTALLMENT OF ESTIMATED TAX.—In the case of the failure to pay an installment of the estimated tax within the time prescribed, there shall be added to the tax $2.50 or 2½ per centum of the tax, whichever is the greater, for each installment with respect to which such failure occurs.

"(5) SUBSTANTIAL UNDERESTIMATE OF ESTIMATED TAX.—If 80 per centum of the tax (determined without regard to the credits under sections 32, 35, and 466(e)), in the case of individuals other than farmers exercising an election under section 60(a), or 66⅔ per centum of such tax so determined in the case of such farmers, exceeds the estimated tax (increased by such credits), there shall be added to the tax an amount equal to such excess, or equal to 6 per centum of the amount by which such tax so determined exceeds the estimated tax so increased, whichever is the lesser. This paragraph shall not apply to the taxable year in which falls the death of the taxpayer."

* * * * * * *

(f) TAXABLE YEARS TO WHICH APPLICABLE.—The amendments made by this section shall be effective with respect to taxable years beginning after December 31, 1942, except that section 294(a)(5) of the Internal Revenue Code shall not be applicable to a taxable year beginning in 1943 in the case of an individual not required to make a declaration under section 58 of the Internal Revenue Code for such year.

SEC. 19.204–1. ADDITIONS TO THE TAX.—(*a*) *General.*—Section 294(a) (3), (4), and (5) provides for certain additions to tax in the case of—

(1) failure to file timely a declaration of estimated tax;

(2) failure to pay within the time prescribed any installment of the estimated tax; and

(3) substantial understatements of the estimated tax.

These additions are in addition to the penalties prescribed by section 145 (relating to criminal penalties) for willful failure to make and file returns and declarations of estimated tax, for willful failure to pay over such tax, and for willfully attempting to defeat or evade such tax.

(*b*) *Additions for specific failures on the part of the taxpayer with respect to the estimated tax.*—(1) *Failure to file declaration.*—Section 294(a)(3) provides for an addition to the tax in the case of failure to make and file a declaration of estimated tax within the time prescribed. Such addition to the tax shall be in an amount equal to 10 per cent of the tax shown on the return after application of the credits claimed under section 32 for tax withheld at the source under section 143, section 35 (relating to the tax under Subchapter D of Chapter 9), and section 466(e) (relating to the tax withheld on wages with respect to the victory tax).

(2) *Failure to pay installment of estimated tax.*—Section 294(a)(4) provides for an addition to the tax in the case of the failure to pay an installment of the estimated tax within the time prescribed in the Act or within the time prescribed by the Commissioner pursuant to authority granted by the Act. Such addition to the tax shall be in the amount of 2½ per cent of the tax shown on the return (determined as set forth in (1)) but in no event shall such addition be less than $2.50 for each installment with respect to which the failure occurs. In the case of husband and wife who file a joint declaration of estimated tax for the taxable year and subsequently file separate returns for such taxable year, the addition to the tax in the case of a failure to pay an installment of the estimated tax within the time prescribed shall be 2½ per cent of the tax shown on the return (determined as set forth in (1)) of each spouse but not less than $2.50 in the case of each spouse as to each installment with respect to which the failure occurs.

(3) *Substantial understatement of estimated tax.*—Section 294(a)(5) provides for an addition to the tax in the case of a taxpayer who makes a substantial underestimate of tax on his declaration. In the case of individuals, other than those exercising the election under section 60(a), an addition to the tax is provided in the event that the amount of the estimated tax (increased by the amounts of the credits claimed on the return for taxes withheld at source under sections 143, 1622, and 466) is less than 80 per cent of the tax shown on the return (determined without regard to such credits). In the event of a failure to file the required declaration, the amount of the estimated tax for the purposes of this provision is zero.

In the case of individuals exercising the election under section 60(a), the addition to the tax is applicable if the amount of the estimated tax increased by the amount of the credit claimed on the return for taxes withheld at source on wages and the credit claimed on the return under section 32 is less than 66⅔ per cent of the amount of the tax shown on the return (determined without regard to such credits).

The addition to the tax in any case in which there has been such understatement as comes within the scope of section 294(a)(5) is an amount equal to—

(*a*) the excess of 80 per cent of the tax shown on the return (or 66⅔ per cent, in the case of farmers exercising the option under section 60(a)) determined without regard to the credits claimed on the return under sections 32, 35, and 466(e), over the amount of the estimated tax increased by the credits claimed on the return under such sections; or

(*b*) 6 per cent of the excess of the tax shown on the return determined without regard to the credits claimed on the return under sections 32, 35, and 466(e), over the amount of the estimated tax increased by such credits,

whichever of (*a*) or (*b*) is the lesser. These principles may be illustrated by the following example:

Example. A files his declaration of estimated tax for the calendar year 1944 showing the amount he estimates as the tax under Chapter 1 for the taxable year as $800 (before application of credits for tax withheld at source) and the estimated credits for amounts withheld at the source of $600, thus reaching an estimated tax of $200. The tax shown on his return for such taxable year before the application of credits for tax withheld at source is $1,200 and the credit claimed on the return for tax withheld at the source is $700. In such case 80 per cent of the tax shown on the return determined without regard to the credits is 80 per cent of $1,200, or $960. The amount of the estimated tax, however, as shown by A upon his declaration was $200, which amount increased by the amount of the credits claimed on the return for tax withheld at the source upon wages ($700) amounts to $900. The amount of 80 per cent of the tax shown on the return for the taxable year, or $960, is in excess of $900 and, hence, A is subject to the penalty provided in section 294(a)(5). The amount of the penalty in such case is (*a*) $60 ($960 minus $900), or (*b*) 6 per cent of $300 ($1,200 minus $900) or $18, whichever of (*a*) or (*b*) is the lesser. Since $18 is the lesser of these amounts, the penalty is $18.

PAR. 3. There is inserted immediately preceding section 19.145–1 the following:

SEC. 5. CURRENT PAYMENT OF TAX NOT WITHHELD AT SOURCE. (CURRENT TAX PAYMENT ACT OF 1943.)

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(c) PENALTIES.—Section 145(a) of the Internal Revenue Code (relating to criminal penalties) is amended (1) by inserting after "return" wherever appearing therein the words "or declaration", and (2) by inserting before "tax" wherever appearing therein the words "estimated tax or".

* * * * * * *

(f) TAXABLE YEARS TO WHICH APPLICABLE.—The amendments made by this section shall be effective with respect to taxable years beginning after December 31, 1942, except that section 294(a)(5) of the Internal Revenue Code shall not be applicable to a taxable year beginning in 1943 in the case of an individual not required to make a declaration under section 58 of the Internal Revenue Code for such year.

PAR. 4. There is inserted immediately preceding section 19.56–1 the following:

SEC. 5. CURRENT PAYMENT OF TAX NOT WITHHELD AT SOURCE. (CURRENT TAX PAYMENT ACT OF 1943.)

* * * * * * *

(d) PAYMENT BY INSTALLMENTS.—Section 53(b) of the Internal Revenue Code (relating to installment payments) is amended by striking out "The" at the beginning thereof and inserting in lieu thereof "Except in the case of an individual (other than an estate or trust and other than a nonresident alien with respect to whose wages, as defined in section 1621(a), withholding under Subchapter D of Chapter 9 is not made applicable), the"

* * * * * * *

(f) TAXABLE YEARS TO WHICH APPLICABLE.—The amendments made by this section shall be effective with respect to taxable years beginning after December 31, 1942, except that section 294(a)(5) of the Internal Revenue Code shall not be applicable to a taxable year beginning in 1943 in the case of an individual not required to make a declaration under section 58 of the Internal Revenue Code for such year.

PAR. 5. Section 19.56–1, as amended by Treasury Decision 5285, approved July 22, 1943 [I. R. B. 1943–15, 7], is further amended—

(A) By striking out "143 and 144" in the first sentence of subsection (*a*) and inserting in lieu thereof "143, 144, 466, and 1622."

(B) By inserting in the second sentence of subsection (*a*) immediately after the word "individual" the following:

who does not have wages subject to withholding under section 1622,

(C) By striking out "The tax may" in subsection (*a*) and inserting in lieu thereof the following:

Except in the case of an individual (other than an estate or trust and other than a nonresident alien individual who does not have wages subject to withholding under section 1622), the tax may

(D) By redesignating subsection (*b*) as subsection (*c*).

(E) By inserting the following immediately after subsection (*a*):

(*b*) *Current payment of the tax.*—In the case of (1) individual citizens and residents of the United States (other than estates and trusts) and (2) nonresident alien individuals who have wages as defined in section 1621(a) which are subject to withholding under section 1622, the privilege of installment payments of the tax does not apply.

PAR. 6. There is inserted immediately preceding section 19.217–1 the following:

SEC. 5. CURRENT PAYMENT OF TAX NOT WITHHELD AT SOURCE. (CURRENT TAX PAYMENT ACT OF 1943.)

* * * * * * *

(e) DATE FOR MAKING RETURN BY CERTAIN NONRESIDENT ALIENS.—(1) Section 217(a) of the Internal Revenue Code (relating to returns by nonresident aliens) is amended by inserting after "In the case of a nonresident alien individual" the following: "with respect to whose wages, as defined in section 1621(a), withholding under Subchapter D of Chapter 9 is not made applicable,".

* * * * * * *

(f) TAXABLE YEARS TO WHICH APPLICABLE.—The amendments made by this section shall be effective with respect to taxable years beginning after December 31, 1942, except that section 294(a)(5) of the Internal Revenue Code shall not be applicable to a taxable year beginning in 1943 in the case of an individual not required to make a declaration under section 58 of the Internal Revenue Code for such year.

PAR. 7. Section 19.217–1, as amended by Treasury Decision 5285, is further amended as follows:

(A) By changing the caption thereof to read as follows:

TIME AND PLACE FOR FILING RETURNS OF NONRESIDENT ALIEN INDIVIDUALS.—(*a*) *Aliens not subject to withholding at the source on wages.*

(B) By inserting in the first sentence thereof immediately after the word "individual" the following:

(but as to taxable years beginning after December 31, 1942, only such individuals who do not have wages subject to withholding at the source under section 1622).

(C) By adding at the end thereof the following new subsection:

(*b*) *Aliens whose wages are subject to withholding at the source under section 1622—Taxable years beginning after December 31, 1942.*—In the case of nonresident alien individuals who have wages subject to withholding under section 1622, the general rule provided in subsection (*a*) of this section with respect to the filing of the return on or before the 15th day of the sixth month following the close of the fiscal year or on or before the 15th day of June, if the taxpayer is on the basis of the calendar year, has no application to taxable years beginning after December 31, 1942. Such latter aliens are required to file their returns and to pay the tax for such taxable years at the time prescribed generally for United States citizens and residents. Such aliens having been placed upon a current tax payment system applicable generally to United States citizens and residents, the provisions relative to the filing of returns and payment of tax in the case of such citizens and residents are equally applicable to such aliens. As to the time of filing the return in the case of United States citizens and residents, see sections 53 and 19.53–1.

PAR. 8. There is inserted immediately preceding section 19.218–1 the following:

SEC. 5. CURRENT PAYMENT OF TAX NOT WITHHELD AT SOURCE. (CURRENT TAX PAYMENT ACT OF 1943.)

* * * * * * *

(e) DATE FOR MAKING RETURN BY CERTAIN NONRESIDENT ALIENS.—

* * * * * * *

(2) Section 218(a) of the Internal Revenue Code (relating to payment of tax by nonresident aliens) is amended by inserting after "In the case of a nonresident alien individual" the following: "with respect to whose wages, as defined in section 1621(a), withholding under Subchapter D of Chapter 9 is not made applicable,".

(f) TAXABLE YEARS TO WHICH APPLICABLE.—The amendments made by this section shall be effective with respect to taxable years beginning after December 31, 1942, except that section 294(a)(5) of the Internal Revenue Code shall not be applicable to a taxable year beginning in 1943 in the case of an individual not required to make a declaration under section 58 of the Internal Revenue Code for such year.

PAR. 9. Section 19.218–1, as amended by Treasury Decision 5285, is further amended as follows:

(A) By inserting in the first sentence immediately after "nonresident alien individual" the following: "(but, as to taxable years beginning after December 31, 1942, only such individuals who do not have wages subject to withholding under section 1622)."

(B) By adding at the end thereof the following new sentences:

In the case of a nonresident alien individual who has wages subject to withholding at the source under the provisions of section 1622 the tax for taxable years beginning after December 31, 1942, is to be paid at the time provided in the case of United States citizens and residents. See section 19.56–1.

PAR. 10. There is inserted immediately preceding section 19.22(b)(13)–1 the following:

SEC. 7. ADDITIONAL ALLOWANCE FOR MEMBERS OF ARMED FORCES. (CURRENT TAX PAYMENT ACT OF 1943.)

(a) IN GENERAL.—Section 22(b)(13) of the Internal Revenue Code (relating to additional allowance for military and naval personnel in computing net income) is amended to read as follows:

"(13) ADDITIONAL ALLOWANCE FOR MILITARY AND NAVAL PERSONNEL.—In the case of compensation received during any taxable year and before the termination of the present war as proclaimed by the President, by a member of the military or naval forces of the United States for active service in such forces during such war, or by a citizen or resident of the United States who is a member of the military or naval forces of any of the other United Nations for active service in such forces during such war, so much of such compensation as does not exceed $1,500."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1942.

PAR. 11. Section 19.22(b)(13)–1, as added by Treasury Decision 52.8, approved March 8, 1943 [I. R. B. 1943–6, 2], is amended to read as follows:

SEC. 19.22(b)(13)–1. COMPENSATION OF MILITARY AND NAVAL FORCES.—(*a*) *Taxable years beginning after December 31, 1942.*—For any taxable year beginning after December 31, 1942, in addition to other exemptions and credits otherwise applicable, there may be excluded from gross income in the case of

(1) a member of the military or naval forces of the United States or

(2) a citizen or a resident of the United States who is a member of the military or naval forces of any of the other United Nations

so much of the compensation for active service in such forces during the present war as does not exceed the sum of $1,500. Such exclusion is applicable without distinction as to the rank or as to the marital status of the recipient of such compensation but is applicable only to such compensation received prior to the termination of the present war to be fixed by proclamation of the President. If the husband and wife both meet such requirements, then each is entitled to exclude such amount from gross income. For the purposes of this section the military and naval forces of the United States include (but are not necessarily limited to) the Army; the Navy; the Marine Corps; the Coast Guard; the Army Nurse Corps, Female; the Navy Nurse Corps, Female; the Women's Army Auxiliary Corps or the Women's Army Corps; the Women's Reserve branch of the Naval Reserve; the Marine Corps Women's Reserve; and the Coast Guard Reserve, including the Coast Guard Women's Reserve. For the purposes of this subsection the term "member of the military or naval forces of any of the other United Nations" shall mean any individual whose duties in the service of any of the United Nations other than the United States correspond to those of any member of the military or naval forces of the United States as defined in this section.

A person is in active service if he is actually serving in such forces, not necessarily in the field or in the theater of war. Personnel in the inactive reserve or on retirement are not in active service. Periods during which a person is absent from duty on account of sickness, wounds, leave, internment by the enemy, or other lawful cause are periods of active service.

In the case of a husband and wife domiciled in a State recognized for Federal income tax purposes as a community property State, the exclusion from gross income under section 22(b)(13) operates before apportionment of the gross income of the spouses in accordance with community property laws. For example, a married man and his wife are domiciled in such a State and he is entitled to the benefit of the exclusion under section 22(b)(13) as a member of the armed forces. He receives during 1943 compensation for active service in such forces in the amount of $2,000. Of such amount only $500 is taken into account in determining the gross income of both husband and wife.

This exemption does not apply to salary or compensation received by such person subsequent to discharge or release from active service even though payment may have been made as compensation for services rendered while in active service.

(*b*) *Taxable years beginning in 1942.*—For any taxable year beginning after December 31, 1941, and prior to January 1, 1943, a person below the grade of commissioned officer in active service in the military or naval forces of the United States during the present war may exclude from gross income salary or compensation received in any form from the United States for such service, in an amount not in excess of $250 if single or $300 if married or the head of a family. If the husband and wife both meet such requirements, then each is entitled to the $300 exclusion. The exemption under this subsection does not apply to compensation received before January 1, 1942, or after the close of the taxable year of the taxpayer beginning before January 1, 1943.

As to what constitutes the military and naval forces of the United States for the purposes of this subsection, see subsection (*a*) of this section. For the purposes of this subsection, personnel serving with the Army Specialist Corps are not within the scope of the exemption. As to what constitutes active service for the purposes of this subsection, see subsection (*a*) of this section.

This exemption does not apply to salary or compensation received by such person subsequent to discharge or release from active service even though payment may have been made as compensation for services rendered while in active service.

For the purposes of this subsection, whether a person is in active service in the military or naval forces of the United States and whether such person is single, married, or the head of a family is determined by such person's status on the last day of the taxable year.

PAR. 12. There is inserted immediately after section 19.404–1, as added by Treasury Decision 5195, approved December 8, 1942 [C. B. 1942–2, 35], the following:

SEC. 8. ABATEMENT OF TAX FOR MEMBERS OF ARMED FORCES UPON DEATH. (CURRENT TAX PAYMENT ACT OF 1943.)

Chapter 1 of the Internal Revenue Code is amended by inserting after section 404 the following new supplement:

"SUPPLEMENT U—ABATEMENT OF TAX FOR MEMBERS OF ARMED FORCES UPON DEATH.

"SEC. 421. ABATEMENT OF TAX FOR MEMBERS OF ARMED FORCES UPON DEATH.

"In the case of any individual who dies on or after December 7, 1941, while in active service as a member of the military or naval forces of the United States or of any of the other United Nations and prior to the termination of the present war as proclaimed by the President, the tax imposed by this chapter shall not apply with respect to the taxable year in which falls the date of his death, and the tax under this chapter and under the corresponding title of each prior revenue law for preceding taxable years which is unpaid at the date of his death

(including interest, additions to the tax, and additional amounts) shall not be assessed, and if assessed the assessment shall be abated, and if collected shall be credited or refunded as an overpayment."

SEC. 19.421-1. ABATEMENT OF TAX FOR MEMBERS OF THE ARMED FORCES ON DEATH.—If an individual dies on or after December 7, 1941, and before the termination of the present war as proclaimed by the President and while in active service as a member of the military or naval forces of the United States or of any of the other United Nations, then—

(*a*) the tax liability in the case of such individual under Chapter 1 for the taxable year in which occurs the date of death is canceled and if the tax (including interest, additions to the tax and additional amounts) is assessed, the assessment shall be abated and if the amount of such tax is collected (regardless of the date of collection) the amount so collected shall be credited or refunded as an overpayment; and

(*b*) that amount of tax under Chapter 1, or corresponding provisions of prior revenue laws, for taxable years prior to the taxable year in which occurs the date of death, which remains unpaid as at such date shall not be assessed, and if any such unpaid tax (including interest, additions to the tax, and additional amounts) has been assessed, such assessment shall be abated and if the amount of any such unpaid tax is collected subsequent to the date of death, the amount so collected shall be credited or refunded as an overpayment.

If such individual and his spouse have for any such year filed a joint return, the tax abated, credited, or refunded pursuant to the provisions of section 421 for such year shall be an amount equal to that portion of the joint tax liability which is the same percentage of such joint tax liability as a tax computed upon the separate income of such individual is of the sum of the taxes computed upon the separate incomes of such individual and his spouse, but in no event shall the amount so abated, credited, or refunded exceed the amount unpaid at the date of death. For such purpose the separate tax of each spouse shall be the tax computed under Chapter 1 of the Internal Revenue Code before the application of sections 32, 35, and 466(e), but after the application of section 31, as if such spouse were required to make a separate return, except that each spouse shall be entitled to one-half of the personal exemption allowed on the joint return.

If an individual whose tax is canceled under section 421 and his spouse filed a joint declaration of estimated tax for the taxable year in which occurs the date of death of such individual, the estimated tax paid pursuant to such declaration may be treated as the estimated tax of either such individual or his spouse, or may be divided between them, according as his legal representative and his spouse may agree. Should they agree to treat the estimated tax paid pursuant to such joint declaration as the estimated tax of such individual, the estimated tax so paid shall be credited or refunded as an overpayment for the taxable year ending with the date of death of such individual.

This section applies only if the death occurs while the individual is in active service. A person is in the active service of the military or naval forces if he is actually serving in such forces, not necessarily in the field or in the theater of war. Personnel in the inactive reserves or on retirement are not in active service. Periods during which a person is absent from duty on account of sickness, wounds, leave, internment by the enemy, or other lawful cause are periods of active service.

(This Treasury decision is issued under the authority contained in section 62 of the Internal Revenue Code (53 Stat., 32; 26 U. S. C., 1940 ed., 62), and sections 5, 7, and 8 of the Current Tax Payment Act of 1943 (Public law 68, Seventy-eighth Congress), approved June 9, 1943.)

GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved September 20, 1943.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

(Filed with the Division of the Federal Register September 21, 1943, 12.36 p. m.)

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